

§ 37.680 Must I require a participant to report when it enters into a subaward allowing a for-profit firm to use an IPA?

Yes, your expenditure-based TIA must require participants to report to you when they enter into any subaward allowing a for-profit subawardee to use an IPA, as described in § 37.670(b)(2). You must provide that information about the new subaward under the TIA for your DoD Component's annual submission to the DTIC, even though the TIA may have been reported in a prior year and does not itself have to be reported again.

PROPERTY

§ 37.685 May I allow for-profit firms to purchase real property and equipment with project funds?

(a) With the two exceptions described in paragraph (b) of this section, you must require a for-profit firm to purchase real property or equipment with its own funds that are separate from the research project. You should allow the firm to charge to an expenditure-based TIA only depreciation or use charges for real property or equipment (and your cost estimate for a fixed-support TIA only would include those costs). Note that the firm must charge depreciation consistently with its usual accounting practice. Many firms treat depreciation as an indirect cost. Any firm that usually charges depreciation indirectly for a particular type of property must not charge depreciation for that property as a direct cost to the TIA.

(b) In two situations, you may grant an exception and allow a for-profit firm to use project funds, which includes both the Federal Government and recipient shares, to purchase real property or equipment (*i.e.*, to charge to the project the full acquisition cost of the property). The two circumstances, which should be infrequent for equipment and extremely rare for real property, are those in which you either:

(1) Judge that the real property or equipment will be dedicated to the project and have a current fair market value that is less than \$5,000 by the time the project ends; or

(2) Give prior approval for the firm to include the full acquisition cost of the real property or equipment as part of the cost of the project (see § 37.535).

(c) If you grant an exception in either of the circumstances described in paragraphs (b)(1) and (2) of this section, you must make the real property or equipment subject to the property management standards in 32 CFR 34.21(b) through (d). As provided in those standards, the title to the real property or equipment will vest conditionally in the for-profit firm upon acquisition. Your TIA, whether it is a fixed-support or expenditure-based award, must specify that any item of equipment that has a fair market value of \$5,000 or more at the conclusion of the project also will be subject to the disposition process in 32 CFR 34.21(e), whereby the Federal Government will recover its interest in the property at that time.

§ 37.690 How are nonprofit participants to manage real property and equipment?

For nonprofit participants, your TIA's requirements for vesting of title, use, management, and disposition of real property or equipment acquired under the award are the same as those that apply to the participant's other Federal assistance awards. Specifically, the requirements are those in:

(a) 32 CFR 33.31 and 33.32, for participants that are States and local governmental organizations.

(b) 32 CFR 32.32 and 32.33, for other nonprofit participants, with the exception of nonprofit GOCOs and FFRDCs that are exempted from the definition of "recipient" in 32 CFR part 32. Although it should occur infrequently, if a nonprofit GOCO or FFRDC is a participant, you must specify appropriate standards that conform as much as practicable with requirements in that participant's other Federal awards. Note also that:

(1) If the TIA is a cooperative agreement (see appendix B to this part), 31 U.S.C. 6306 provides authority to vest title to tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting